

THE CITY OF NEW YORK
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June 28, 2007

BY HAND DELIVERY

The Honorable Leonard B. Sand
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Julio Melecio v. Mr. Victor et al.
07 CV 3664 (LBS)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to the above matter. Without appearing on their behalf or making any representations as to the adequacy of service or otherwise, I write to respectfully request that defendants Lyndon Victor, Carol McLean and Sharon Hart be granted an enlargement of time from the present date to August 27, 2007, to answer or otherwise respond to plaintiff's complaint. Plaintiff is incarcerated and appearing *pro se* and therefore could not be reached for her consent to this request.

There are several reasons for seeking an enlargement of time. In accordance with this office's obligation under Rule 11 of the Federal Rules of Civil Procedure, we need time to investigate the allegations in the complaint. Plaintiff filed the instant matter alleging that, on March 27, 2007, while incarcerated at the George R. Verno Center on Rikers Island, he was assaulted by the defendant correction officers. Specifically, plaintiff alleges a bed sheet was placed around his neck and that he was subsequently punched, kicked, sprayed with maced, and struck with a "walky-talky". As a result, plaintiff alleges that he sustained physical injuries. To that end, this office is in the process of forwarding to plaintiff for execution a HIPPA complaint medical release, so that we can access plaintiff's medical records from the alleged incident. This office is also in the process of obtaining the relevant documents pertaining to plaintiff from the New York City Department of Correction.

Further, assuming plaintiff effects timely service on the remaining individual defendants, the extension should allow time for this office to determine, pursuant to Section 50-k of the New York General Municipal Law, and based on a review of the facts of the case, whether we may represent the individually named defendants. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985)) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law).

Accordingly, without appearing on their behalf or making any representations as to the adequacy of service or otherwise, defendants Lyndon Victor, Carol McLean and Sharon Hart respectfully request an extension of time until August 27, 2007, to answer or otherwise respond to plaintiff's complaint. Thank you for your consideration of this request.

Respectfully submitted,



Sumit Sud (SS/2781)
Assistant Corporation Counsel

cc: Julio Melecio
Din: 441-06-04242
Otis Bantum correctional Center
16-00 Hazen Street
East Elmhurst, New York 11370 (by regular mail)

in agreement

extension to 8/27/07 is granted

So ordered

 Sand
V/S/S
7/2/07